

Entered on Docket

August 25, 2023

EDWARD J. EMMONS, CLERK
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA



1 PAUL J. PASCUZZI, State Bar No. 148810 **Signed and Filed: August 25, 2023**
JASON E. RIOS, State Bar No. 190086

2 THOMAS R. PHINNEY, State Bar No. 150435
FELDERSTEIN FITZGERALD WILLOU

3 PASCUZZI & RIOS LLP
500 Capitol Mall, Suite 2250
4 Sacramento, CA 95814
Telephone: (916) 329-7400
5 Facsimile: (916) 329-7435
Email: ppascuzzi@ffwplaw.com
6 jrios@ffwplaw.com
7 tphinney@ffwplaw.com

DENNIS MONTALI
U.S. Bankruptcy Judge

8 ORI KATZ, State Bar No. 209561
9 ALAN H. MARTIN, State Bar No. 132301
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
A Limited Liability Partnership
Including Professional Corporations
10 Four Embarcadero Center, 17th Floor
San Francisco, California 94111-4109
11 Telephone: (415) 434-9100
Facsimile: (415) 434-3947
12 Email: okatz@sheppardmullin.com
amartin@sheppardmullin.com

13 Proposed Attorneys for The Roman Catholic
Archbishop of San Francisco

14 UNITED STATES BANKRUPTCY COURT

15 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

16 In re

Case No. 23-30564

17 THE ROMAN CATHOLIC ARCHBISHOP
18 OF SAN FRANCISCO,

Chapter 11

19 Debtor and
20 Debtor in Possession.

21 **INTERIM ORDER GRANTING DEBTOR'S
EMERGENCY MOTION FOR INTERIM
AND FINAL ORDERS (1) PROHIBITING
UTILITY COMPANIES FROM ALTERING,
REFUSING OR DISCONTINUING SERVICE,
(2) DETERMINING ADEQUATE
ASSURANCE OF PAYMENT FOR POST-
PETITION UTILITY SERVICES UNDER 11
U.S.C. § 366, (3) ESTABLISHING
PROCEDURES FOR DETERMINING
ADEQUATE ASSURANCE OF PAYMENT,
AND (4) SCHEDULING A FINAL HEARING**

25 Date: August 24, 2023
26 Time: 1:30 p.m.
27 Location: Via ZoomGov

Judge: Hon. Dennis Montali

1 The Roman Catholic Archbishop of San Francisco's ("RCASF" or "Debtor"), motion (the
2 "Motion"),¹ filed on August 21, 2023, as ECF No. 8, for an order (1) prohibiting Utility Companies
3 from altering, refusing or discontinuing service; (2) determining that the debtor's furnishing of
4 deposits to Utility Companies listed on Exhibit 2 (appended to the Motion) in an amount that
5 represents 50% of the Debtor's estimated average monthly usage over the past twelve months of
6 such utility respectively constitutes adequate assurance of payment; (3) establishing procedures for
7 assurance requests by the affected utilities and for determining adequate assurance of payment; and
8 (4) scheduling a final hearing came on for hearing, on an interim basis, on August 24, 2023, at 1:30
9 p.m., in Courtroom 17 of the United States Bankruptcy Court for the Northern District of California.
10 Paul J. Pascuzzi, Esq., of Felderstein Fitzgerald Willoughby Pascuzzi & Rios LLP and Ori Katz of
11 Sheppard, Mullin, Richter & Hampton LLP appeared on behalf of the Debtor. All other appearances
12 were as noted on the record.

13 The Court having considered the Motion, the Passarello Background Declaration, the
14 Passarello Declaration filed in support of the Motion, and the representations of counsel as reflected
15 in the record of the hearing, and the Court having found that it has jurisdiction over this proceeding;
16 that this is a core proceeding; that notice of the Motion has been given to the Office of the United
17 States Trustee, the 20 largest unsecured creditors, all secured creditors, and any applicable
18 governmental entities; that no further notice is necessary; that the relief sought in the Motion is in
19 the best interests of the Debtor, its estate, and its creditors; and that good and sufficient cause exists
20 for such relief,

21 It is hereby ORDERED as follows:

- 22 1. The Motion is GRANTED, on an interim basis, as provided herein.
- 23 2. Within five business days of the Court's entry of this Order, the Debtor shall serve
24 each Utility Company listed on Exhibit 1 to this Order with a copy of this Order via first class mail,
25 and the Debtor shall serve all persons requesting special notice herein, counsel for any statutory
26 committee(s), if one has been appointed or, if not, on the 20 largest unsecured creditors as identified

27 28 ¹ All capitalized terms used but not defined in this Order shall have the meanings given to them in
the Motion.

1 in the Debtor's petition, on the Office of the United States Trustee for the Northern District of
2 California, and counsel for the secured creditors, if any, pursuant to Federal Rules of Bankruptcy
3 Procedure Rule 4001(b).

4 3. The Debtor is authorized, but not required, to timely remit payments for undisputed
5 invoices for post-petition services by the Utility Companies in accordance with the Debtor's
6 prepetition practices.

7 4. Within ten court days of the receipt by the Debtor or its bankruptcy counsel of a
8 written request from a Utility Company for adequate assurance under the Bankruptcy Code, the
9 Debtor will provide each Utility Company a cash deposit (the "Deposit") in an amount equal to 50%
10 of the Debtor's estimated monthly cost of its utility consumption from each Utility Company. If a
11 Utility Company provides the Debtor with services under multiple accounts, then the Debtor may
12 provide that Utility Company with one deposit that equals 50% of the aggregate estimated monthly
13 usage under all of the Debtor's accounts with that Utility Company.

14 5. Except in accordance with the procedures set forth herein, and absent further order
15 of the Court, each Utility Company is prohibited from (a) altering, refusing, or discontinuing utility
16 services solely on the basis of the commencement of Debtor's case under the Bankruptcy Code or
17 on account of any unpaid prepetition invoice for utility services, and (b) requiring the payment of
18 any additional deposit or other security to the Utility Companies for the continued provision of
19 utility services.

20 6. If a Utility Company is not satisfied with the assurance of future payment provided
21 by the Debtor, the Utility Company must serve upon counsel for the Debtor a written request for
22 adequate assurance ("Assurance Request"), setting forth (i) the location and account number(s) for
23 which utility services are provided; (ii) the outstanding balance on the account and a summary of
24 the Debtor's payment history; (iii) the reasons why the Deposit does not constitute satisfactory
25 adequate assurance of payment; and (iv) a proposal of what the Utility Company would constitute
26 satisfactory adequate assurance of payment.

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1 7. The Assurance Request must be received by the Debtor's counsel, Felderstein
2 Fitzgerald Willoughby Pascuzzi & Rios LLP, 500 Capitol Mall, Suite 2250, Sacramento, California
3 95814 (Attention: Paul J. Pascuzzi) within 45 calendar days of the date a Final Order granting the
4 Motion is served upon the Utility Company making the Assurance Request.

5 8. Without further order of the Court, the Debtor may enter into agreements granting
6 additional adequate assurance to a Utility Company serving an Assurance Request, if the Debtor, in
7 its discretion, determines that the request is reasonable.

8 9. If the Debtor determines that an Assurance Request is unreasonable, then the Debtor
9 shall, within 21 days of receipt of such Assurance Request, file a motion ("Determination Motion")
10 pursuant to Bankruptcy Code section 366(c)(3) seeking a determination from the Court that the
11 Deposit, plus any additional consideration offered by Debtor, constitutes adequate assurance of
12 payment and set the Determination Motion for hearing on shortened time. Pending notice and a
13 hearing on the Determination Motion, the Utility Company that is the subject of the unresolved
14 Assurance Request may not alter, refuse, or discontinue services to the Debtor or recover or setoff
15 against a prepetition deposit.

16 10. Nothing set forth herein is intended to, nor shall it, modify or alter the burdens of
17 proof in connection with a Determination Motion.

18 11. Based on the establishment of the Deposit, a Utility Company will be deemed to have
19 adequate assurance of payment unless and until a future order of this Court is entered requiring
20 further assurance of payment.

21 12. A final hearing on the Motion shall be held on September 14, 2023, at 1:30 p.m. Any
22 opposition to the Motion must be filed with the Court and served on counsel for the Debtor listed
23 on the first page of the Motion and this Interim Order, no later than September 7, 2023. The Debtor
24 shall file any reply to any opposition to the Motion by noon on September 12, 2023. If no objections
25 are filed to the Motion, the Court may enter the Final Order without further notice or hearing.

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13. The Debtor is authorized, in its sole discretion, to amend the list of Utility Companies attached as Exhibit 1 to add or delete any Utility Company. The Debtor shall serve the amended Exhibit 1 on any affected Utility Company within five business days of such amendment.

14. Nothing in the Motion, Exhibit 2 thereto, or this Order constitutes a finding that any
entity is or is not a utility company hereunder or under section 366 of the Bankruptcy Code.

6 15. Notwithstanding the relief granted herein and any actions taken pursuant hereto,
7 nothing herein shall be deemed: (i) an admission as to the validity of any claim against the Debtor;
8 (ii) a waiver of the Debtor's rights to dispute any claim on any grounds; (iii) a promise or
9 requirement to pay any claim; (iv) an implication or admission that any particular claim is of a type
10 specified or defined hereunder; (v) a request or authorization to assume any agreement, contract or
11 lease pursuant to section 365 of the Bankruptcy Code; or (vi) a waiver of the Debtor's rights under
12 the Bankruptcy Code or any other applicable law.

13 16. This Court shall retain jurisdiction over all matters arising from or related to the
14 interpretation or implementation of this Order.

15 17. The Debtor and its employees and agents are authorized to take or refrain from taking
16 such acts as are necessary and appropriate to implement and effectuate the relief granted herein.

*****END OF ORDER*****

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EXHIBIT 13
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LIST OF UTILITY COMPANIES AND ACCOUNTS

5 6 7 Name and Address of Utility	8 9 Type of Service / Account Number	10 11 Property Address Where Utility Provided (if applicable)
12 13 AT&T PO Box 5025 Carol Stream, IL 60197-5025	14 15 mobile phones xxx-XXX-XXXX 1199	16 17 N/A
18 19 AT&T PO Box 5025 Carol Stream, IL 60197-5025	20 21 mobile phones xxx-XXX-XXXX 5618	22 23 N/A
24 25 AT&T PO Box 5025 Carol Stream, IL 60197-5025	26 27 mobile phones xxx-XXX-XXXX 3478	28 29 N/A
30 31 AT&T PO Box 5025 Carol Stream, IL 60197-5025	32 33 mobile phones xxx-XXX-XXXX 5229	34 35 N/A
36 37 AT&T PO Box 5025 Carol Stream, IL 60197-5025	38 39 mobile phones xxx-XXX-XXXX 5558	40 41 N/A
42 43 AT&T PO Box 5025 Carol Stream, IL 60197-5025	44 45 mobile phones xxx-XXX-XXXX 3212	46 47 N/A
48 49 AT&T PO Box 5025 Carol Stream, IL 60197-5025	50 51 mobile phones xxx-XXX-XXXX 1957	52 53 N/A
54 55 California Water Service Co PO Box 4500 Whittier, CA 90607-4500	56 57 water 2117xxxxxx	58 59 455 W 20th Ave San Mateo
60 61 Comcast PO Box 60533 City of Industry, CA 91716-0533	62 63 cable TV 1131	64 65 455 W 20th Ave San Mateo
66 67 Pacific Gas and Electric PO Box 997300 Sacramento, CA 95899-7300	68 69 electric 4627-4	70 71 1 Peter Yorke Way San Francisco

	Name and Address of Utility	Type of Service / Account Number	Property Address Where Utility Provided (if applicable)
1	Pacific Gas and Electric PO Box 997300 Sacramento, CA 95899-7300	gas 2298-6	1 Peter Yorke Way San Francisco
2	Pacific Gas and Electric PO Box 997300 Sacramento, CA 95899-7300	electric 2167-8	1600 Van Ness Ave San Francisco
3	Pacific Gas and Electric PO Box 997300 Sacramento, CA 95899-7300	gas 6967-0	1600 Van Ness Ave San Francisco
4	Pacific Gas and Electric PO Box 997300 Sacramento, CA 95899-7300	gas 4942-2	320 Middlefield Rd Menlo Park
5	Pacific Gas and Electric PO Box 997300 Sacramento, CA 95899-7300	electric 8677-4	320 Middlefield Rd Menlo Park
6	Pacific Gas and Electric PO Box 997300 Sacramento, CA 95899-7300	gas 8857-9	455 W 20th Ave San Mateo
7	Pacific Gas and Electric PO Box 997300 Sacramento, CA 95899-7300	gas & electric 1695-5	5618 California St San Francisco
8	Recology Golden Gate 250 Executive Park Blvd. Suite 2100 San Francisco, CA 94134-3306	trash collection 2405	1 Peter Yorke Way San Francisco
9	Recology Golden Gate 250 Executive Park Blvd. Suite 2100 San Francisco, CA 94134-3306	trash collection 1315	5618 California St San Francisco
10	Recology San Mateo PO Box 848268 Los Angeles, CA 90084-8268	trash collection 4057	455 W 20th Ave San Mateo
11	San Francisco Water, Power & Sewer PO Box 7369 San Francisco, CA 94120-7369	water 5713xxxxxx	1 Peter Yorke Way San Francisco

Name and Address of Utility	Type of Service / Account Number	Property Address Where Utility Provided (if applicable)
San Francisco Water, Power & Sewer PO Box 7369 San Francisco, CA 94120-7369	fire service 4473xxxxxx	1 Peter Yorke Way San Francisco
San Francisco Water, Power & Sewer PO Box 7369 San Francisco, CA 94120-7369	water 9298xxxxxx	1600 Van Ness Ave San Francisco
San Francisco Water, Power & Sewer PO Box 7369 San Francisco, CA 94120-7369	water 5494xxxxxx	5618 California St San Francisco
TPx Communications PO Box 509013 San Diego, CA 92150-9013	telephone 8844	1 Peter Yorke Way San Francisco
Verizon Wireless PO Box 660108 Dallas, TX 75266-0108	internet access 9798-xxxxxx	1 Peter Yorke Way San Francisco

1 Court Service List

2 Registered ECF Participants only.

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